UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,352	09/12/2003	Ralf Steuernagel	13907-056001 / 2003P00129	6743

32864 7590 09/22/2006	EXAMINER	
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ART UNIT	PAPER NUMBER
2167	

DATE MAILED: 09/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/661,352	STEUERNAGEL ET AL.
	Examiner	Art Unit	
	Cheryl Lewis	2167	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 June 2006*.

2a)☐ This action is FINAL.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-34* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-34* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1-34 are presented for examination.

2.   Applicants have amended claims 1, 4-7, 16-21, 24, and 26-30 and the applicants

have added new claims 31-34 in the amendment received on June 16, 2006.

3.   The applicants have cancelled claim 25 in the amendment received on June 16,

2006.

4.   Applicants' arguments with respect to claims 1-24 and 26-34 have been

considered but are deemed to be moot in view of the new grounds of rejection (the prior

art rejection of Markham et al., Pat. No. 2006/0149407 A1, presented in the office action

below.

5.   Applicants' arguments filed on June 16, 2006 have been fully considered but they

are not deemed to be persuasive with regards to the 35 USC 101 rejection.

Remarks

6.   Regarding the 35 USC 112 rejection, the rejections to claims 1, 4, 7, 18, and 24

are hereby withdrawn. The examiner thanks the applicants for amending the

independent claims to state that these claims are being implemented by a physical

computing device. However, upon closer review of the independent claims the

examiner maintains the 35 USC 101 rejection.

Claim Rejections - 35 USC § 101

7.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8.   Claims 1, 7, 18, and 24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. As follows:

Claims 1, 7, 18, and 24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 1 is directed to distribution of a data assembly, adding redundant data to the assembled data based on a characteristic of a component targeted for receipt of the assembled data. Claim 7 is directed to receiving valuation information describing results of an evaluation of the distribution of data assembled to a component and modifying the assembled data. Claim 18 is directed to receiving historical distribution information about the assembled data, distributing information identifying components of the assembled data, and determining if distribution of the current version of the data assembled to a target component is warranted. Emphasis is placed on the conditional "IF statement". After the IF conditional statement, there is no additional statements that follow to conclude this statement, where this statement should conclude with producing a tangible result. Claim 24 is directed to the same programming conditional statements that are cited above for independent claim 18. Likewise, claim 24 does not conclude with an ending statement. The missing step and/or ending statement to conclude the looping

statement of the "IF conditional" statement should conclude with a statement that produces tangible results and the statement should have a positive step in which the method ends the conditional looping "IF conditional" statement. The claimed inventions, as a whole must accomplish a **practical application.** That is, it must produce a **"useful, concrete, and tangible result."** *State Street, 149 F.3d at 1373, 47 USPQ2d at 1601-02. MPEP 2106.* In each of these cases the **result** is utilizing the assembly of data for distribution. The claimed limitations are an abstraction as they are not **useful, concrete, and tangible**, they are not put in any tangible form and not useful because they are not presented in such a way to provide some result that is of utility that may exist in the specification however no specific use is provided for in the claimed invention. Thus the clams are non-statutory and stand rejected under 101 as not producing a **"useful, concrete, and tangible result."**

Further as to claims 7, 18, and 24, the claims are further rejected as under 101 because they recite a program product and computer-readable media and the program product and media in the specification may be interpreted as corresponding to any of the possible media including non tangible media such as transmission media including carrier waves and are further reasons why these claims do not have results which are useful, concrete, and tangible. Claims 7, 18, and 24 require a physical component. The examiner suggests that the applicants kindly consider amending claims 7, 18, and 24 to recite "a computer readable storage device media" having stored thereon computer executable instructions executed by a storage device..."

Claim Rejections - 35 USC § 102

9.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10.   Claims 1-34 are rejected under 35 U.S.C. 102(e) as being anticipated by

Markham et al. (Publication No.: US 2006/0149407 A1 filed February 27, 2006, priority

to provisional application no. 60/344747, filed on December 28, 2001, hereinafter

Markham).

11.   Regarding Claim 1, Markham teaches a quality management and intelligent

manufacturing with labels and smart tags in event-based product manufacturing.

        The method and associated system for a quality management and intelligent

manufacturing with labels and smart tags in event-based product manufacturing as

taught or suggested by Markham includes:

        distribution of data assembly (paragraphs 0041-0252), adding redundant data to

the data assembly based on a characteristic of a component of data management

system targeted for receipt of the data assembly (paragraphs 0041-0252).

12.   Regarding Claim 2, Markham teaches duplicating a second data assembly

referenced by the data assembly (paragraphs 0041-0252).

13.   Regarding Clam 3, the limitation of this claim has been noted in the rejection of claim 1 presented above. It is therefore rejected as set forth above.

14.   Regarding Claim 4, the limitation of this claim has been noted in the rejection of claim 1 presented above. In addition, Markham teaches technical characteristic that characterizes a technical capability (paragraphs 0041-0252).

15.   Regarding Claims 5 and 6, Markham teaches a technical ability of the component to handle complex data objects (paragraphs 0041-0252).

16.   Regarding Claim 7, the limitation of this claim has been noted in the rejection of claim 1 presented above. In addition, Markham teaches receiving valuation information describing results of an evaluation of the appropriateness of distribution a portion of a data assembly (paragraphs 0041-0252) and modifying the data assembly for distribution based on the received valuation information (paragraphs 0041-0252).

17.   Regarding Claim 8, Markham teaches receiving an indication of invalidity and eliminating the invalid portion (paragraphs 0041-0252).

18.   Regarding Claim 9, Markham teaches an indication of a change the change relating to an update to a version (paragraphs 0041-0252).

19.   Regarding Claim 10, Markham teaches elimination of a previous version (paragraphs 0041-0252).

20.   Regarding Claims 11-15, the limitation of these claims have been noted in the rejection of the claims presented above. They are therefore rejected as set forth above.

21.   Regarding Claims 16 and 17, Markham teaches valuation information based on a context of a target component and application (paragraphs 0041-0252).

22.   Regarding Claim 18, Markham teaches receiving historical distribution information for a data assembly identifying one or more components that have previously received some version of the data assembly (paragraphs 0041-0252) and determining if distribution of a portion of a current version of the data assembly to a target component is warranted based on the historical distribution information (paragraphs 0041-0252).

23.   Regarding Claims 19-23, the limitation of these claims have been noted in the rejection of the claims presented above. They are therefore rejected as set forth above.

24.   Regarding Claim 24, the limitations of this claim has been noted in the rejections of the claims presented above. In addition, Markham teaches determining if distribution of at least a portion of the data assembly to a first target component is warranted based on a comparison of the characteristic of the content with the characteristic of the first target component (paragraphs 0041-0252); and determining if distribution of at least portion of the data assembly to a second target component is warranted based on a comparison of the characteristic of the content with a characteristic of the second target component (paragraphs 0041-0252).

25.   Regarding Claim 26, Markham teaches extracting the characteristic of the content comprises searching the content of the data assembly for a keyword relevant to the first target component (paragraphs 0041-0252).

26.   Regarding Claim 27, Markham teaches extracting the characteristic of the content comprises parsing language in the content (paragraphs 0041-0252).

27.   Regarding Claims 28-34, the limitation of these claims have been noted in the

rejections of the claims presented above. They are therefore rejected as set forth

above.

NAME OF CONTACT

28.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Cheryl Lewis whose telephone number is (571) 272-

4113. The examiner can normally be reached on 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Cottingham can be reached on (571) 272-7079. The fax phone

number for the organization where this application or proceeding is assigned is (571)

273-8300.

(571) 273-4113 (Use this FAX #, only after approval by Examiner, for

"INFORMAL" or "DRAFT" communication. Examiners may request that a formal

paper/amendment be faxed directly to them on occasions.).

Any inquiry of a general nature or relating to the status of this application or

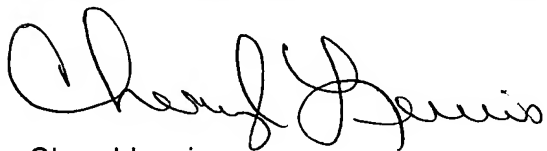proceeding should be directed to the receptionist/ Technology Center (571) 272-2100.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov.

Should you have questions on access to the Private PAIR system, contact the

Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cheryl Lewis
Patent Examiner
September 18, 2006